

Worksession

Agenda Item #	3
Meeting Date	11 June 2007
Prepared By	Sara Anne Daines HCD Director
Approved By	Barbara B. Matthews City Manager

Discussion Item	Continued discussion of rent stabilization
Background	<p>This worksession is intended to provide the Council with an opportunity to consider the last of the outstanding issues associated with the proposed recodification of <i>City Code Chapter 6.20 Rent Stabilization</i>. A summary of the various items considered by the Council during its discussions is attached. Information on current code requirements, the outcome of any discussion, and action steps taken at the direction of the Council are noted. The summary includes information on the issues which must be resolved before the ordinance can be revised in its entirety.</p> <p>Further discussion of any outstanding matters is scheduled for June 18. The Council will be provided an opportunity to consider the adoption of any amendments to the City Code in late July, prior to the August recess. A public hearing on the proposed amendments has been tentatively scheduled for July 9.</p>
Policy	<p>“To complete recodification of <i>City Code Chapter 6.20 Rent Stabilization</i>.”</p> <p><i>Affordable Housing Policy and Action Plan (July 2005)</i></p>
Fiscal Impact	N/A
Attachments	<ul style="list-style-type: none"> • Recodification of <i>City Code Chapter 6.20 Rent Stabilization</i> - Summary • Exhibit A • Exhibit B
Recommendation	To develop support for recommendations for the revision of the current Rent Stabilization Ordinance which will preserve the community’s existing affordable rental housing stock while addressing concerns regarding the complexity of the existing law and its administration.
Special Consideration	

Recodification of City Code Chapter 6.20 Rent Stabilization SUMMARY

June 11, 2007

The following is a summary of the various items considered by the Council during its discussion of possible revisions to *Takoma Park Code Chapter 6.20 Rent Stabilization*. Information on current code requirements, the outcome of any discussion, and action steps taken at the direction of the Council are noted. Matters for which no consensus has been reached are identified.

Annual Rent Increase Allowance

Background Information:

The current ordinance provides for annual rent increases not to exceed 70% of the increase in the Consumer Price Index for All Urban Consumers (CPI-U) for Washington - Baltimore, DC, MD, VA, WV metropolitan area. Recent rent increases (1996 - 2007) have averaged 1.8 %, ranging from a low of 1.0% in 1998 and 1999 to a high of 2.8% in 2006.

The Council has been asked to increase in the annual rent adjustment to 100% of the percentage increase in the CPI-U. The impact of this proposal on typical rents in Takoma Park can be found in Exhibit A. The exhibit includes a historical overview of increases in the Consumer Price Index, the rent increase allowances authorized by the City since 1996, and the Voluntary Rent Guidelines established by Montgomery County Maryland for the same period.

Council Support:

No consensus has been reached by the Council on the proposed revision.

Requested Action:

To reach a consensus on the index to be used when determining the annual rent increase allowance.

Application of Rent Stabilization Based Upon Size of Rental Facility

Background Information:

The requirements of the current ordinance do not apply to single rental units, provided the landlord owns no more than one rental unit in Takoma Park. Roughly 295 rental units - single family properties as well as condominiums and townhouses - are currently not subject to rent stabilization under this provision of the ordinance. Dr. Baar has recommended that the ordinance be amended so that when determining whether or not a facility is subject to rent stabilization, the number of housing units in the facility - regardless of occupancy - rather than

the number of units that the landlord owns within the City, is considered. Staff supports this recommendation.

While no specific recommendation was made by Dr. Baar as to the size of the facility to be regulated, several suggestions have been offered by individual Councilmembers. The impact of this proposal is noted in Exhibit B.

Historically, accessory apartments, owner-occupied group homes, facilities whose primary purpose is to provide certain services or programming for qualified clients, hotels, motels, guest houses, dormitories, nursing homes, and hospitals - have not been subject to the requirements of rent stabilization. Dr. Baar's proposal - and any approved amendments to the ordinance - would not affect these properties.

Council Support:

No consensus has been reached by the Council.

Requested Action:

To reach a consensus on the revision of the ordinance to apply the requirements of rent stabilization to a rental facility based upon the number of housing units contained within the facility - regardless of occupancy - and not the ownership of the facility.

Assuming a consensus is reached in support of the proposal to amend the ordinance, a decision on the size of facilities to be subject to the requirements of rent stabilization must be reached.

Rent Increase Petitions

Background Information:

The ordinance currently provides for two types of rent increase petitions - individual requests for rent increases above the annual rent increase allowance outlined above - hardship and capital improvement rent increase petitions.

A capital improvement petition is an application or petition filed by a landlord seeking authorization to institute a rent increase above the annual rent increase allowance pursuant to a past or planned capital improvement. A hardship petition is filed by a landlord wishing to maintain the net operating income of a specific rental facility. Approved rent increases are limited to 15% per year, can be phased in over a period of years, and remain in place throughout the life of the property.

Recommendations forwarded by Dr. Baar include the repeal of the capital improvement and hardship rent increase petition process and the establishment of a single - fair return - petition. This proposal, presented before the Council during its May 29 worksession, would provide for

the consideration of capital replacements as amortized operating expenses within a fair return petition rather than as basis for a separate rent adjustment. Further revisions proposed by Dr. Baar and endorsed by the Council include the establishment of a uniform interest allowance for amortized expenses and the establishment of alternative base years to be used when reviewing the proposed fair return petitions. Staff supports the recommendations of Dr. Baar.

To address concerns raised by Dr. Baar about the current petition process during his initial review of the ordinance, the Council approved on May 20, 2007, an ordinance amending *Takoma Park Code Section 6.20.060.C.8* to eliminate individual financing arrangements as a factor in rent increase awards. Provisions included in this amendment will be included in any subsequent ordinance amendments.

Council Support:

Yes - Consensus has been reached by the Council to proceed with the proposed changes to the current rent increase petition process.

Requested Action:

None. A consensus has been reached and the proposed changes will be incorporated in the ordinance amendment to be considered by the Council in July.

General Exemptions

Background Information:

Ordinance #2006-31, adopted by the Council on July 24, 2006, identified the types of properties to be considered exempt from the requirements of rent stabilization. As of October 1, 2006, the effective date of the ordinance, the following properties are now exempt from rent stabilization:

- Rental facilities owned by recognized nonprofit housing organizations, rented to low income tenants and subject to an agreement with a governmental agency that controls the unit's rent levels;
- Units leased to tenants assisted under county, state or federal rent subsidy program such as the Housing Choice Voucher Program (Section 8); and
- Newly constructed rental housing would be exempt from rent stabilization for first five years of operation.

The exemption is not automatic. To qualify, an owner must apply to the City and the requested exemption must be approved before the property is determined to no longer be subject to the requirements of rent stabilization.

Council Support:

Yes - Council finalized the expanded listing of properties to be exempt from the requirement of rent stabilization with the adoption of Ordinance #2006-31.

Requested Action:

None. The exemptions set forth in Ordinance #2006-31 will be incorporated in the final revisions to be considered by the Council in July 2007.

Rent Increases upon Vacancy (Vacancy Decontrol)

Background Information:

The current rent stabilization law prohibits vacancy decontrol – the establishment of a new market rate rent upon the voluntary vacancy of a rental unit by a tenant or when a tenant was evicted for cause. Rents may be increased to the maximum allowable rent level – the highest rent that could have been charged by the landlord if the annual rent increase allowance and all approved capital improvement and hardship rent increases had been applied. Vacancy decontrol was not recommended by Dr. Baar and is not supported by staff.

Council Support:

To date the Council has not supported the concept of vacancy decontrol though the proposal was briefly discussed at the May 29, 2007 worksession.

Requested Action:

None. Voluntary decontrol has not been supported by the Council to date and, unless otherwise directed by the Council, will not be incorporated into any revisions presented for consideration.

Limited Rent Increases Upon Vacancy

Background Information:

Dr. Baar's recommendations included consideration of a limited rent increase upon vacancy (e.g. 5 to 10%) with a limit on the frequency of such increases (e.g. one every five years for a unit). The current ordinance does not provide for rent increases beyond those permitted under the annual rent increase allowance and approved capital improvement and hardship rent increase petitions.

Council Support:

To date the Council has not supported the concept of limited rent increases upon the voluntary vacancy of a rental unit.

Requested Action:

None. The proposal has not been supported by the Council to date and, unless otherwise directed by the Council, will not be incorporated into any revisions presented for consideration.

Unused Rent Stabilization Rent Increases

Background Information:

Originally recommended by Dr. Baar but later withdrawn following a review of available rent data, the proposal provided for rent increases for in-place tenants in situations where the maximum allowable rent exceeded the actual rent charged by the landlord. The current ordinance does not provide for rent increases beyond those permitted under the annual rent increase allowance and approved capital improvement and hardship rent increase petitions.

Council Support:

No - The Council has not supported the establishment of rent increases above those currently provided for in the existing ordinance.

Requested Action:

None. The proposal has not been supported by the Council and will not be incorporated into any revisions presented to the Council for consideration.

Utility Surcharges

Background Information:

The current code does not provide for the establishment of a surcharge to offset increases in energy costs imposed in recent years by area utility providers. Landlords wishing to recover these additional operating expenses must submit a hardship rent increase petition. Any rent increase approved by COLTA would be applied for the remainder of the life of the building, regardless of any further fluctuations in energy charges. A utility surcharge has been proposed by Dr. Baar which, if approved, would offset a portion of the increasing utility costs incurred by certain landlords while remaining flexible enough to respond to variations in the market. Staff supports Dr. Baar's recommendation.

To facilitate its review of the proposed surcharge and to better gauge its impact on local renters, the Council has endorsed the undertaking of the collection and thorough analysis of utility costs incurred by many local landlords. On the basis of this analysis, the ordinance could be amended

to include a system of appropriate rent adjustments for owners who provide specified utilities. Funding for the proposed study is included in the City's FY08 budget.

Council Support:

Yes - Consensus has been reached by the Council on the proposed analysis.

Requested Action:

No action is required at this time.

Assuming adoption of the proposed FY08 budget, the analysis would be undertaken in late summer with any findings and subsequent recommendations presented to the Council for consideration this Fall.

Notification upon Transfer of Property

Recommended by Dr. Baar and in response to increasing concerns regarding the lack of information regarding local housing laws, specifically rent stabilization provided to prospective buyers of rental facilities, the Council amended *Takoma Park Code, Title 6, Housing, Chapter 6.28, Sale of Rental Facilities* to expand the notification and disclosure requirements for contracts of sale for rental facilities located within Takoma Park. The ordinance provides prospective purchasers with the information needed to make an informed decision prior to the purchase of a rental facility. The ordinance went into effect April 8, 2007.

Council Support:

Yes - Council approved the expansion of existing disclosure requirements with the adoption of Ordinance #2007-08.

Requested Action:

None. The proposed revision of *Takoma Park Code Chapter 6.20 Rent Stabilization* will not affect Ordinance #2007-08.

Additional Proposals

Background Information:

During the course of the Council's review of rent stabilization, a proposal was made to assess a fee against rental units which were determined not to be subject to the requirements of rent stabilization due to the number of housing units contained within a rental facility. The funds collected as a result of this fee would be used to support future affordable housing initiatives undertaken by the City.

Council Support:

No consensus was reached on the proposed fee.

Requested Action:

To defer discussion of the proposed fee until such time as the Council undertakes its annual review of the City's Affordable Housing Policy and Action Plan. The review, scheduled for later this summer, would include the proposed fee as well as other financing options such as the dedication of a portion of the property tax revenues collected by the City, the establishment of a housing trust fund and a community land trust.

Exhibit A

COMPARISON ANNUAL RENT INCREASE INDICES			
YEAR	CPI Increase 100%	TP Rent Allowance 70% CPI	MC Voluntary Rent Guideline
1996	NA	1.5%	2.5%
1997	0.8%	2.0%	1.6%
1998	0.7%	1.0%	0.6%
1999	1.9%	1.0%	3.5%
2000	3.1%	1.5%	3.2%
2001	2.9%	2.3%	5.1%
2002	2.2%	1.7%	4.7%
2003	3.1%	1.8%	5.4%
2004	2.3%	1.9%	4.5%
2005	3.8%	2.1%	3.7%
2006	4.0%	2.8%	4.4%
2007	3.0%	2.1%	5.8%

ESTIMATED IMPACT OF SPECIFIC INDICES	
Rent increase assuming Base Rent of \$650 in 2006	
CPI - 100%	\$ 25.94
Takoma Park Allowance	\$ 18.20
MC Voluntary Guidelines	\$ 28.60
Rent increase assuming Base Rent of \$750 in 2006	
CPI - 100%	\$ 29.93
Takoma Park Allowance	\$ 21.00
MC Voluntary Guidelines	\$ 33.00
Rent increase assuming Base Rent of \$850 in 2006	
CPI - 100%	\$ 33.92
Takoma Park Allowance	\$ 23.80
MC Voluntary Guidelines	\$ 37.40

EXHIBIT B

Breakdown of licensed rental facility by number of units located within the facility		
Number of Units In Rental Facility	Rental Facilities Currently Subject to Rent Stabilization (a)	
	Number of Rental Facilities	Number of Rental Units
1	21	21
2	29	53
3	51	153
4	34	136
5	16	80
6	48	288
7	10	70
8	3	24
9	3	27
10 or more units	37	1077
TOTAL	252	1934

(a) 2006 Annual Rent Reports

Anticipated impact of proposed amendment	
If the ordinance were amended to exclude certain properties from the requirements of rent stabilization - based upon the number of units within the facility rather than the ownership of the property - the following rent stabilized units would be no longer regulated.	
Excluded Facilities	Affected Rental Units
One (1) unit	21
Two (2) and fewer units	79
Three (3) and fewer units	232
Four (4) and fewer units	368